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Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[17 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Bhopal tragedy: 30 years of injustice for victims and survivors

Summary

"The gas ruined our lives so badly that neither my husband or I could do any work...My first son developed TB at the age of 8 or 10, and the first daughter that he had was born with a disability...The people who struggle are mainly those who are poor and mainly women."

Hazra Bee, survivor of the Bhopal disaster.[1]

This year will mark the 30th anniversary of one of the world's worst industrial disasters: the toxic gas leak on 2 December 1984 from the Union Carbide India Limited (UCIL) factory in Bhopal, India. However, the negative consequences of the disaster have never been properly remedied and continue to undermine human rights. As the years go by, there is a real danger that the impetus for action will diminish and the rights of the victims and survivors will be forgotten. The fact that 30 years on there remains a failure to respect, protect and fulfil their rights reflects a significant failure of non-state actors, governments, and the international community.

Immediate action is required to address the impacts of the tragedy and its enduring legacy. Amnesty International urges the UN Human Rights Council, its expert mechanisms, its Members and observer states to draw attention to the ongoing negative human rights impacts of the Bhopal disaster. UN Special Procedures should call for concrete steps to be taken to remedy the ongoing environmental contamination and substandard living conditions which have contributed to 30 years of inter-generational health problems.

Amnesty International urges the Government of India to initiate an authoritative assessment and clean-up of the environmental contamination at the site and to support efforts of victims and survivors to secure justice. We also call on the Government of the United States to ensure that US-based companies comply with ongoing legal actions and to engage in bi-lateral efforts with the Indian government to remedy the consequences of the Bhopal disaster.

The gas leak and its long-term human rights impacts

On 2 December 1984, toxic gas containing deadly chemicals leaked from a storage tank at the pesticide plant in Bhopal, Madhya Pradesh. The plant, built close to densely populated slum areas, was owned and operated by UCIL which was majority owned by the US-based company Union Carbide Corporation (UCC).

The immediate impact of the gas leak on the human rights of the local population was devastating. It is estimated that between 7,000 and 10,000 people died within three days of the leak.[2] More than 570,000 people, many of whom are still suffering, were exposed to damaging levels of toxic gas.[3]

The gas leak's long term impact has been inter-generational. Tens of thousands of people continue to suffer severe long-term health problems, including children who were born to gas-affected parents. The health of women has been particularly affected.[4] The gas leak entrenched existing poverty and marginalization.

A compensation package agreed between the Government of India and UCC, approved by the Supreme Court of India in 1989, is seen by many, including Amnesty International, as highly inadequate.[5] The settlement was negotiated without participation of the affected communities and without a proper quantification of the full health and environmental impacts or the impact on livelihoods.

There have been numerous attempts to obtain justice through legal actions in India and the United States, some of which are ongoing. UCC has consistently refused to appear in India to face outstanding criminal charges of "culpable

homicide not amounting to murder". The Chief Judicial Magistrate's (CJM) Court in Bhopal has declared UCC to be an absconder from justice.[6]

In 2001, UCC was bought by The Dow Chemical Company (Dow). Despite holding 100% ownership, Dow has never compelled UCC to face the outstanding criminal charges against it. In July 2013, the company was itself summoned by the Bhopal CJM Court to explain why it has failed to ensure its subsidiary appears in court.

30 years on: the environmental disaster and on-going contamination

After being abandoned in the wake of the gas leak, the former UCIL site has continued to be a source of serious environmental pollution and has never been properly remediated. Contamination generated by plant operations and stockpiles of waste scattered in and around the plant premises have remained untreated or abandoned for decades.

The pollution has contaminated water and soil in the area, harming the rights to health and access to clean drinking water of people in the surrounding communities. Many persons not exposed to the gas leak developed health problems similar to persons who had been exposed, including cancers and reproductive health issues among women and girls.[7] Local activists and residents believe that this is due to contaminated drinking water. Since 2004, the Madhya Pradesh government has taken steps to provide fresh water; however, these measures came far too late and have been insufficient to meet the needs of the population.

Numerous studies have been conducted to assess the environmental contamination around the factory site. An analysis of 15 previous studies carried out in 2013 by the Centre for Science and Environment (CSE) found significant convergence, including consensus that soil at the site remains contaminated.[8] While most of the previous studies confirmed the presence of groundwater contamination, CSE found some variance among the findings. As such, CSE concluded that further conclusive assessment is required.

Given the gravity and uncertainties surrounding the ongoing impacts to health caused by the soil and water contamination, Amnesty International believes that there is an urgent need for an independent, authoritative body to undertake a comprehensive assessment of the extent of the on-going contamination at the Bhopal site, and to provide a detailed remediation plan.

Recommendations

The ongoing situation in Bhopal reflects a collective failure by non-state actors, governments and the international community.

Amnesty International urges relevant UN Special Procedures (including: the Independent Expert on Human Rights and the Environment; the Working Group on business and human rights; the Special Rapporteur on safe drinking water and sanitation; the Special Rapporteur on the right to health; and the Special Rapporteur on extreme poverty) to support efforts to obtain effective remedy for those affected by the ongoing human rights impacts of the disaster. This could be done by taking the following steps:

- In the lead up to the 30th anniversary of the disaster, publicly issue statements calling for tangible action to be taken to address the ongoing human rights issues;
- Conduct a visit to Bhopal to investigate the situation of affected communities, taking into account gender-differentiated impacts; and
- Support Amnesty International's recommendations to the Government of India, the State Government of Madhya Pradesh, and the Government of the United States, as outlined below.

Amnesty International urges Indian authorities to take urgent steps to redress decades of injustice experienced by survivors of the Bhopal gas leak and subsequent generations. The Government of India should:

- Invite an independent expert body to conduct an authoritative and comprehensive scientific assessment of the extent of environmental contamination at the Bhopal site and surrounding areas, and provide a detailed remediation plan .
- Act immediately in consultation with local communities to remove, analyse and dispose of toxic waste at the UCIL site once the pending decision by the Supreme Court of India is issued.
- Take all necessary steps to implement the order issued by the Bhopal CJM court summoning Dow to appear before it.

The State Government of Madhya Pradesh should:

- Strengthen the provision of clean drinking water, healthcare and health monitoring, economic rehabilitation, and pension support, to people in communities living near the Bhopal site, taking into account the different ways that women, men and children continue to be affected by the gas leak and environmental contamination.

Amnesty International also urges the Government of the United States to ensure that Dow and UCC respect outstanding legal processes, including the summonses to appear before the CJM Court in Bhopal, and respond positively to requests issued by the Government of India for assistance. We further urge the Government of the United States to engage in bi-lateral discussions with the Indian government to advance a concrete plan to clean-up the area around the UCIL site.

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[1] Amnesty International interview, 30 March 2012.
[2] Amnesty International, *Clouds of Injustice*, 29 November 2004, AI Index: ASA 20/015/2004, (*Clouds of Injustice*) p10.
[3] Bhopal Gas Tragedy Relief and Rehabilitation Department, *Annual Report 2003*, government of Madhya Pradesh.
[4] Unpublished study Rani Bang, *Effect of the Bhopal Disaster on Women's Health: An Epidemic of Gynecological Diseases*, 1985.
[5] The initial figure of 3,000 deaths used by the Supreme Court to calculate UCC's compensation amount has been significantly exceeded. Based on epidemiological figures reported by the Indian Council of Medical Research (ICMR), local advocate groups calculated the aggregate number of deaths during the period 1985-1993 to be 9,667. Since this figure did not include those who died in the days immediately following the disaster, the total death toll by 1993 was estimated at 12,167.
[6] *Bano v. Union Carbide Corporation and Warren Anderson* (No.99 Civ 11329 JFK) amended class action complaint.
[7] *Clouds of Injustice*, p26.
[8] Centre for Science and Environment, *Action Plan: Environmental Remediation in and around UCIL, Bhopal*, June 2013.